

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

**No. CV 12-1179 WJ/LAM
CR 10-1717 WJ**

CHARLES GUTIERREZ,

Defendant/Movant.

ORDER

THIS MATTER is before the Court on Defendant/Movant's motion to vacate, set aside, or correct sentence (*CV Doc. 1; CR Doc. 50*) and motion to proceed *in forma pauperis* (*CV Doc. 2*). It appears from the record that Defendant has previously been found indigent (*CR Doc. 9*), and thus his motion to proceed *in forma pauperis* is moot. Pursuant to Rule 4 of the Rules Governing Section 2255 Proceedings for the United States District Courts, the Court will order the United States to answer Defendant/Movant's motion to vacate, set aside, or correct sentence (*CV Doc. 1; CR Doc. 50*).

IT IS THEREFORE ORDERED that Defendant/Movant's motion to proceed *in forma pauperis* (*CV Doc. 2*) is **DENIED as moot**;

IT IS FURTHER ORDERED that the Clerk is directed to forward to the United States of America a copy of Defendant's motion to vacate, set aside, or correct sentence (*CV Doc. 1; CR Doc. 50*) and supporting papers and exhibits, if any, together with a copy of this order.

IT IS FURTHER ORDERED that the United States answer Defendant/Movant's motion to vacate, set aside, or correct sentence (*CV Doc. 1; CR Doc. 50*) **within twenty-three days of entry of this order.**

IT IS SO ORDERED.

Lourdes A. Martinez
LOURDES A. MARTINEZ
UNITED STATES MAGISTRATE JUDGE